ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER W4

WATER CORPORATION OF ANGUILLA ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises Act 14/2008, in force 3 November 2008

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WATER CORPORATION OF ANGUILLA ACT

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WATER CORPORATION OF ANGUILLA ACT

PART 1

PRELIMINARY

Interpretation

1. In this Act—

"abstract" includes divert;

"Board" means the Board of the Corporation established under section 5(1);

"business plan", in relation to a financial year, means—

(a) the business plan approved under section 16; and

(b) all amendments to the business plan approved under that section,

for the financial year;

"Chairperson" means the person designated under section 7(1) as Chairperson;

"charge for water service", in relation to a customer, means—

(a) subject to paragraph (b), a charge to the customer referred to in section 46(1); or

(b) in the case that the Corporation and a customer have entered into a special agreement referred to in section 46(6), the charge to the customer set out in such agreement;

"Chief Auditor" has the same meaning as assigned to it in the Financial Administration and Audit Act;

"Chief Executive Officer" means the person appointed as such under section 11(1);

"Corporation" means the Water Corporation of Anguilla established by section 2;

"Court" means the Magistrate's Court;

"customer" means a customer of the Corporation and includes a potential customer;

"Deputy Chairperson" means the person designated under section 7(1) as Deputy Chairperson;

"financial year" means the 12 month period ending on 31 December in each year;

"Government" means the Government of Anguilla;

"land" means land as defined in the Registered Land Act;

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"member" means a member appointed under section 5(1);

"Minister" means the member of Executive Council responsible for waterworks;

"Ministry" means the Ministry responsible for waterworks;

"notice", except in respect of a Board meeting, means notice under section 43 or 66;

"piped water" means water supplied through a system of waterworks to the public but does not include water supplied by—

(a) a person who in connection with his or her business operations on his or her premises supplies water by waterworks for public consumption by persons on those premises if the water is not supplied by waterworks off those premises, whether or not the water is water treated or supplied, or both, by the person or supplied by the Corporation to the person;

(b) a landlord who in connection with the lease or rental of his or her premises supplies water by waterworks to those premises for public consumption by persons on those premises if the water is not supplied by waterworks off those premises, whether or not the water is water treated or supplied, or both, by the landlord or supplied by the Corporation to the landlord; or

(c) any person or operation exempted by regulation;

"prescribed" means prescribed by regulation under section 57(1);

"public officer" means public officer within the meaning of section 73(1) of the Constitution of Anguilla;

"service connection" means the connection of waterworks from the nearest convenient point of the water-main of the Corporation to the point on the premises of the customer where the water meter of the Corporation is installed and includes the water meter;

"Water Board" means the Water Board which was established under section 3 of the Watercourses and Waterworks Act, R.S.A. c. W5, and was in existence immediately before 3 November 2008;

"water-main" means a pipeline through which water is or is intended to be distributed for consumption by the public generally;

"water service" means the supply of piped water to a customer on his or her premises by the Corporation and includes the right to have water supplied by pipe to the customer on his or her premises by the Corporation;

"waterworks" means the water-mains, pipes, valves, fittings, pumps, pumping stations, tanks, washouts, standpipes, water meters and appurtenances used in, or in relation to, the conveyance of water.

(Am. in L.R. 15/12/2008)

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PART 2

ESTABLISHMENT OF CORPORATION AND CORPORATE OPERATIONS

Establishment, Objects and Powers

Establishment of Water Corporation of Anguilla

2. (1) The Water Corporation of Anguilla is established with an exclusive right to supply piped water.

(2) The Corporation is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Corporation has an exclusive right to the use of its name.

(4) The common seal shall be kept in such custody as the Board directs and shall be authenticated by the Chairperson or Deputy Chairperson.

(5) Contracts and instruments made by the Board, other than those required by law to be under seal, and resolutions of the Board may be authenticated under the hand of the Chairperson or Deputy Chairperson.

Objects of Corporation

3. The objects of the Corporation are to engage in activities to—

(a) manage and operate a piped water system in such a manner that the public has a supply of potable water that is reliable, efficient and economic;

(b) maintain and from time to time to repair, alter or replace, in whole or in part, the waterworks of the Corporation; and

(c) upgrade and extend the waterworks of the Corporation to all parts of Anguilla to the extent that it is reasonable for the Corporation to do so.

General powers of Corporation

4. In addition to the other powers conferred upon the Corporation in this Act and the regulations, the Corporation has the power to do all things necessary for, or ancillary or incidental to, the carrying out of its objects, including the power—

(a) to acquire, hold and deal with interests in land referred to in—

(i) section 26(2) (vesting of wayleaves, easements and other rights), or

(ii) wayleaves acquired under section 29, 30 or 32 or wayleaves, easements and other similar rights otherwise acquired;

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(b) in relation to land, other than land or interests in land described in paragraph (a), to acquire and hold and, subject to the approval of the Minister, deal with and dispose of that land, or any interest in that land;

(c) to enter into agreements to purchase potable water for distribution by the Corporation;

(d) to design, construct, acquire by purchase, lease or otherwise and operate facilities to provide potable water for distribution by the Corporation;

(e) subject to any Act or regulation, to abstract ground water for treatment and distribution by pipe by the Corporation;

(f) to contract with any person for the supply to, or by, the Corporation of any goods or services;

(g) to open, maintain or close an account with any bank in Anguilla that holds a licence under the Banking Act[*];

(h) to write off debts; and

(i) to make reasonable contributions to charitable or philanthropic causes by way of sponsorship or otherwise.

The Board and its Operation

The Board and its constitution

5. (1) The affairs of the Corporation shall be managed by a Board consisting of 6 members appointed by the Governor in Council from among persons experienced or having knowledge in business management, industrial relations, finance, engineering or law but not more than 2 members shall be public officers.

(2) Each member shall be appointed for a term not exceeding 3 years.

(3) A person is disqualified from being appointed and from remaining a member if the person—

(a) is under the age of 18 years;

(b) is a member of the House of Assembly;

(c) is an officer or employee of the Corporation;

(d) is an undischarged bankrupt;

(e) is of unsound mind; or

[*] Banking Act, 2015 (Act 6/2015) *repealed* the Banking Act, R.S.A. c. B11.

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(f) has been convicted of an offence involving dishonesty, whether in Anguilla or outside, or a contravention of this Act or the regulations.

(4) A previous appointment as a member does not affect a person's eligibility to be re-appointed as a member.

(5) A notice of the appointment of a member shall be published in the *Gazette* without delay after the appointment.

(6) The Board is deemed to be properly constituted notwithstanding that there is a vacancy on the Board or a defect in the appointment of a member, other than a disqualification referred to in subsection (3).

(*7*) If a member is—

(a) absent from Anguilla; or

(b) unable to act;

the Minister may appoint a person who is eligible to be so appointed to act during the member's absence or inability to act.

Liability of members

6. No action for damages may be commenced against a member or a committee member who is not a member for anything done or not done in good faith by the member or committee member who is not a member while carrying out his or her responsibilities or exercising his or her powers under this Act.

Chairperson, Deputy Chairperson and interim chairperson

7. (1) The Governor in Council shall designate, from among the members who are not public officers, one person to be Chairperson and another to be Deputy Chairperson of the Board.

(2) The Deputy Chairperson may act in place of the Chairperson if the Chairperson is absent or unable to act or the office of Chairperson is vacant.

(3) If, by reason of the absence or incapacity of the Chairperson or Deputy Chairperson or a vacancy in either of those offices, the Board does not have a chairperson, the Board may designate one of the members as an interim chairperson.

Remuneration, expenses and allowances of members

8. (1) The members shall be paid such remuneration as may be determined by the Governor in Council.

(2) The Board may—

(a) reimburse the reasonable expenses of members; or

(b) establish allowances for the reimbursement of reasonable expenses of members;

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incurred in the course of the carrying out of their responsibilities as members.

Resignation and removal of members

9. (1) A member may at any time resign by giving written notice to the Minister and a resignation is effective upon receipt of the notice by the Minister.

(2) The Governor in Council may, by written notice, remove a member from office if the Governor in Council is satisfied that—

(a) the member has, without the consent of the Board, been absent from 3 or more consecutive meetings of the Board;

(b) the member is or becomes disqualified under section 5(3) from being appointed or from remaining as a member;

(c) the member has an interest that is likely to affect prejudicially the exercise and performance of his or her responsibilities as a member;

(d) the member is unable or unfit to carry out his or her responsibilities as a member; or

(e) it is in the public interest to do so.

(3) If a member resigns, is removed from his or her office or his or her office is vacated by death prior to the expiry of the term for which he or she has been appointed, the Governor in Council may appoint a new member to replace him or her.

(4) An appointment of a member under subsection (3) may be for the unexpired period of the term of office of the member in whose place he or she is appointed or for a new term of not more than 3 years.

(5) A notice of the resignation or removal or the vacating of office by death of a member shall be published in the *Gazette* without delay after such resignation, removal or death, as the case may be.

Procedures of Board

10. The Schedule has effect with respect to procedures of the Board.

Officers and Employees

Appointment of Chief Executive Officer

11. (1) The Board shall, at such remuneration and on such terms and conditions as it considers appropriate, appoint a Chief Executive Officer of the Corporation, who shall be a full-time officer of the Corporation and shall not engage in any other trade, profession, occupation or business without the consent of the Board.

(2) Without prejudice to the generality of subsection (1), the Chief Executive Officer shall—

(a) attend meetings of the Board;

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(b) carry out the directives of the Board; and

(c) perform such other functions in accordance with this Act and the terms and conditions of his or her contract of employment.

(3) Under the direction of the Board, the Chief Executive Officer is responsible for—

(a) the management of the Corporation; and

(b) providing technical advice and guidance to the Board on matters of policy.

(4) Whenever the office of Chief Executive Officer is vacant or the Chief Executive Officer is absent from Anguilla or is unable to act, the Board may appoint an officer of the Corporation to act on his or her behalf.

Appointment of other officers and employees

12. (1) Subject to subsection (5), the Board shall, in addition to the Chief Executive Officer, appoint at such remuneration and on such terms and conditions as it considers appropriate a Finance Manager and such other officers and employees as are necessary for the proper carrying out of the responsibilities and the exercise of the powers of the Corporation.

(2) No officer or employee of the Corporation appointed under subsection (1) shall engage in any other trade, profession, occupation or business without the consent of the Board.

(3) Whenever the office of Finance Manager is vacant or the Finance Manager is absent from Anguilla or is unable to act, the Chief Executive Officer may appoint an officer of the Corporation to act on his or her behalf.

(4) The Board may delegate to the Chief Executive Officer the power—

(a) to appoint employees or classes of employees; and

(b) to consent on behalf of the Board to any such employee engaging in any trade, profession, occupation or business.

(5) The Governor in Council may give to the Board directions of a general nature in relation to the remuneration of the officers and employees of the Corporation and the Board shall follow such directions.

Exclusive authority of Board over officers and employees

13. (1) Except in respect of public officers who are seconded to the Corporation, the Board has final authority with respect to the appointment, termination of employment, promotion or discipline of its officers or employees.

(2) The Board may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under this Act with respect to the termination of employment or discipline of its officers or employees to any one or more members of the Board, or with the approval of the Governor in Council, to the Chief Executive Officer.

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Secondment of public officers

14. (1) The Governor may approve the secondment of such public officers for service with the Corporation as appears necessary for the proper carrying out of its responsibilities and the exercise of its powers.

(2) A public officer seconded under subsection (1) shall, in relation to payment of salary, pension, gratuity and the like and to other rights and to discipline, be treated as if the public officer were not so seconded.

Transfer of services of public officers and preservation of pensions, allowances and other benefits

15. (1) All public officers employed in the Water Department of the Government are transferred, on 3 November 2008, to the service of the Corporation at a remuneration and on terms and conditions of service that are not less favourable than the remuneration and terms and conditions of service that were enjoyed by the public officer immediately before 3 November 2008.

(2) The Board may, on or after 3 November 2008—

(a) terminate the employment; or

(b) vary the terms and conditions of service;

of any person referred to in subsection (1) in the same manner and to the same extent as before that date.

(3) The rights of a person referred to in subsection (1) to a pension, allowance or gratuity for which he or she would have been eligible had he or she remained in the public service are preserved, and his or her service with the Corporation shall be pensionable under the Pensions Act as if the person had not been so transferred.

Financial Provisions

Annual business plan

16. (1) The Corporation shall, not later than 4 months before the commencement of each financial year and in such form as the Minister requires, prepare in respect of the financial year, and submit to the Minister, a proposal for a business plan for the financial year in accordance with the regulations.

(2) Until universal access by persons in Anguilla to water service by the Corporation has been substantially achieved in the opinion of the Minister, the Corporation shall in each financial year set aside in a fund, to be called the universal access fund, an amount that is not less than ½% of the gross recurrent revenue of the Corporation in the previous financial year and not more than the amount, if any, set by the Minister.

(3) The Minister may, on the request of the Corporation, extend the time for submitting a proposal for a business plan.

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(4) The estimated expenditure of the Corporation shall include an amount for the reserves of the Corporation.

(5) The Minister shall, as soon as practicable, consider the proposal for a business plan and may—

(a) approve the proposal as submitted;

(b) with the approval of the Corporation, amend the proposal and approve it as amended; or

(c) refer the proposal back to the Corporation with directions that the Corporation take any further action on it that the Minister considers appropriate.

(6) Where the Minister refers the proposal for a business plan back to the Corporation under paragraph (5)(c), he or she shall provide the Corporation with his or her reasons for not approving it.

(7) A proposal for a business plan that is referred back to the Corporation under paragraph (5)(c) must be resubmitted to the Minister as directed by the Minister, and, when it is resubmitted, subsections (5) and (6) apply.

(8) When a proposal in relation to a financial year is approved, it becomes the business plan for that financial year.

(9) The Corporation—

(a) may, of its own motion, submit to the Minister a proposal to amend an approved business plan; and

(b) shall, on request of the Minister and within the time required by the Minister, submit to the Minister a proposal to amend an approved business plan.

(10) Subsections (5), (6), (7) and (8) apply to a proposal submitted to the Minister under subsection (9).

(11) Notwithstanding anything in this section, when—

(a) the proposal for a business plan for a financial year is not approved 1 month before the commencement of the financial year; and

(b) it appears to the Minister and the Corporation that the business plan is not likely to be approved before the commencement of the business year;

the Minister and the Corporation may agree on an interim business plan for the first quarter of the financial year pending the approval of the proposal for a business plan for the financial year, and that interim business plan is the business plan of the Corporation until the proposal for a business plan for the financial year is approved under this section.

(12) The Corporation shall in each financial year implement the business plan for that financial year.

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Funds and resources of the Corporation and their application

17. (1) The funds and resources of the Corporation are—

(a) charges for water service and charges incidental to water service;

(b) money appropriated by the House of Assembly for the purposes of the Corporation;

(c) interest and dividends from the investment of the Corporation's funds;

(d) money borrowed by the Corporation under this or any other Act;

(e) land held by the Corporation and, subject to the approval of the Minister, money derived from the dealing with or disposal of land held by the Corporation;

(f) personal property of the Corporation and money derived from the dealing with or disposal of the personal property held by the Corporation; and

(g) all other money lawfully received or made available to the Corporation.

(2) The funds and resources of the Corporation shall be applied for the purposes of the Corporation.

Borrowing powers

18. (1) The Corporation may, with the approval of the Minister and to the extent that it considers it necessary to carry out its objects—

(a) borrow money by way of loan, advance or overdraft;

(b) obtain goods and services on credit; or

(c) do both the things referred to in paragraphs (a) and (b).

(2) Notwithstanding subsection (1), the approval of the Minister is not required if, in a financial year—

(a) the total money borrowed by way of loan, advance or overdraft; and

(b) the total value of goods and services, other than goods and services obtained on credit by the Corporation that are paid for in less than 30 days after the end of the financial year or such greater time as may be prescribed;

do not exceed $250,000 or such greater amount as may be prescribed for the purposes of this subsection.

(3) The Government, with the approval by resolution of the House of Assembly, may act as guarantor in respect of a loan or the payment of goods and services obtained on credit by the Corporation.

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Investment of surplus funds

19. Subject to the written instructions of the Minister, the Board may invest any of its funds not immediately required for carrying out the responsibilities or exercising the powers of the Corporation.

Accounts and audit

20. (1) The Corporation shall—

(a) keep proper books of account of its income and other receipts and expenditures; and

(b) ensure that—

(i) all money received is promptly and properly brought to account,

(ii) all payments out of its money are correctly made and properly authorised, and

(iii) adequate control is maintained over its property and over the incurring of liabilities by the Corporation.

(2) The books of account kept under subsection (1) shall—

(a) be sufficient to record and explain the Corporation's transactions;

(b) enable the Corporation's financial position to be determined with reasonable accuracy at any time; and

(c) be sufficient to enable financial statements to be prepared and audited in accordance with this section.

(3) Within 3 months after the end of each financial year, the Corporation shall prepare accounts containing—

(a) a statement of the assets and liabilities of the Corporation at the end of the financial year;

(b) a statement of the revenue and expenditure of the Corporation during the financial year;

(c) such other financial statements for the financial year as may be specified in writing by the Minister; and

(d) proper and adequate explanatory notes to the statements;

and the accounts shall be audited by an external auditor appointed by the Board with the approval of the Chief Auditor.

(4) The external auditor shall be a qualified accountant.

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(5) The Corporation shall not appoint as an external auditor, and no person shall act as an external auditor of the Corporation, if, in the financial year in which the appointment is made or in the preceding financial year, the person—

(a) is or was a member;

(b) has or had a direct or indirect interest in a contract with the Corporation, other than the contract respecting the external audit; or

(c) is or was employed by the Corporation in a capacity other than as external auditor.

Audit or acceptance of accounts by Chief Auditor

21. Without delay after the completion of the audit by the auditor appointed by the Board, the Board shall submit the accounts to the Chief Auditor, who—

(a) shall audit the accounts; or

(b) may accept the audit of the external auditor appointed by the Board with the approval of the Chief Auditor;

and, not later than 3 months after receipt of the accounts, forward to the Board a report on the examination and audit of the accounts of the Corporation or a report evidencing his or her acceptance of the audit of the external auditor appointed by the Board.

Annual accounts and report

22. (1) Within 3 months after the receipt of the report of the Chief Auditor, the Board shall submit to the Minister—

(a) its audited accounts and a copy of the report of the Chief Auditor; and

(b) an annual report of its operations and activities for that financial year.

(2) The annual report shall contain such matters as the Minister may require.

(3) The Minister shall, without delay after receipt, table the audited accounts of the Corporation, the report of the Chief Auditor and its annual report before the House of Assembly, if it is sitting, and, if it is not then sitting, without delay after it next sits.

(4) As soon as reasonably practicable after the audited accounts of the Corporation, the report of the Chief Auditor and the annual report of the Corporation have been tabled before the House of Assembly, the Corporation shall cause its audited accounts, the report of the Chief Auditor and its annual report to be published in the *Gazette*.

Exemption from taxes

23. The Corporation is exempt from all taxes and levies on its income and operations and all taxes, duties, administrative fees and rates on its real or personal property and documents.

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PART 3

RIGHTS AND RESPONSIBILITIES OF CORPORATION

Interpretation

Definitions

24. In this Part—

"Chief Engineer" means the Chief Engineer in the Ministry;

"operator" has the meaning assigned to it in the Public Utilities Commission Act;

"owner", in relation to private land, means—

(a) a person registered under the Registered Land Act as owner of land or his or her executor or administrator; or

(b) the Government registered under the Registered Land Act as owner of land;

"owner", in relation to a private road, means—

(a) a person registered under the Registered Land Act as owner of the private road; or

(b) his or her executor or administrator;

"private land" means land registered under the Registered Land Act in the name of an owner, but does not include a private road;

"private road" means a road, other than a public road, that is used as a thoroughfare by members of the public;

"public road" means a road as defined in section 1 of the Roads Act and includes a road deemed to be a public road under section 4 of that Act;

"public utility" means a public utility as defined in the Public Utilities Commission Act, but does not include the Corporation;

"reinstate", in relation to land, includes making good any damage to the land and the removal of excess excavated material from the land.

General Prohibition on Supply of Piped Water

Prohibition on supply of piped water except by Corporation

25. (1) No person, other than the Corporation, shall supply piped water.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $5,000 or to imprisonment for a term of 6 months, and the Court may, in

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addition to convicting the person, make an order prohibiting the person from supplying piped water in contravention of subsection (1).

Vesting of Waterworks, Wayleaves and other Rights and Property in Corporation

Vesting of waterworks, wayleaves, etc. of Crown, Government, etc. in Corporation

26. (1) The waterworks that were vested in the Crown, the Government or the Water Board immediately before 3 November 2008 vest in the Corporation.

(2) All wayleaves, easements and other rights in relation to land of whatsoever nature that, immediately before 3 November 2008, were enjoyed by the Crown, the Government or the Water Board in, on, through, under or over any land in connection with or in relation to the waterworks referred to in subsection (1) vest in the Corporation.

Rights of Entry

Entry onto private road or private land

27. (1) A person authorised under this Act or the regulations to enter on a private road or on private land—

(a) must produce, on request, a document of identity duly authenticated by the Corporation; and

(b) may, at any reasonable time, enter on the private road or private land together with such other persons, equipment and materials as are reasonably required to assist him or her in carrying out the purposes of the entry.

(2) Without prejudice to paragraph (1)(b), any person authorised under this Act or the regulations to enter on a private road or on private land may enter upon any land for the purpose of—

(a) reading, removing or repairing a water meter; or

(b) inspecting any waterworks or any installations or appliances respecting any waterworks.

(3) In addition to the right of entry associated with a wayleave under this Act, a person authorised by the Corporation may enter on a private road or private land for the purpose of—

(a) determining whether the land is suitable for the purposes of a wayleave and may make excavations, perform tests, take samples of soil or rock and do other similar things that are reasonably necessary for the purpose;

(b) reading water meters; or

(c) inspecting service connections and other installations on the private road or private land for the purpose of enforcing this Act.

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(4) In exercising the rights of the Corporation under subsection (3), the Corporation shall rectify any damage caused or pay compensation for its failure to rectify such damage.

Warrant for entry

28. When it is shown to the satisfaction of the Magistrate, on information on oath, that—

(a) entry onto a private road or private land specified in the information is reasonably required by the Corporation or a person authorised by the Corporation for a purpose specified in the information; and

(b) the Corporation or a person authorised by the Corporation is entitled under this Act to exercise that right of entry;

the Magistrate may by warrant authorise the Corporation or a person authorised by the Corporation to enter onto the private road or private land upon compliance with the requirements of this Act relevant to the exercise of the right of entry and, if necessary, by the use of force.

Wayleaves in Public Roads, Private Roads and Private Land

Acquisition of and exercise of rights under wayleaves in public roads

29. (1) Subject to this section, the Corporation has the right to a wayleave to enter and—

(a) place waterworks in, on, through, under or over a public road;

(b) maintain, repair, alter, move, remove, replace, inspect, adjust or test any of those waterworks;

(c) execute any works that are reasonably necessary in relation to the exercise of its rights under paragraph (a) or (b), including breaking up, excavating and temporarily obstructing any public road.

(2) The Corporation shall give not less than 48 hours written notice of its intention to exercise its rights under the wayleave under subsection (1) or, in the case of an emergency, such written notice as is reasonably practicable in the circumstances, to—

(a) the Chief Engineer; and

(b) the Commissioner of Police;

and shall give a general description of what it proposes to do and where and when it proposes to do it.

(3) The Chief Engineer may impose in writing or otherwise any reasonable conditions on the exercise of the Corporation's rights under subsection (1) and may make such conditions applicable to all, to certain classes of, or to specified, exercises of the Corporation's rights.

(4) The Corporation shall comply with the conditions of the Chief Engineer.

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(5) In exercising its rights under subsection (1), the Corporation shall—

(a) with all convenient speed, proceed to complete the placement, maintenance, repair, alteration, movement, removal, replacement, inspection, adjustment or testing of the waterworks;

(b) do as little damage as possible to the public road or anything on the public road;

(c) with all convenient speed, reinstate the public road to the satisfaction of the Chief Engineer or pay compensation for its failure to do so;

(d) until the public road is reinstated, erect and maintain warning signs or devices, including lights and flares, as may be required by the Commissioner of Police, to give users of the public road reasonable notice that the road is broken up, excavated or temporarily obstructed;

(e) be responsible for remedying any defect in the reinstatement of the public road, including any subsidence, for a period of 3 months after completion of the reinstatement, or for paying compensation for its failure to do so; and

(f) take reasonable care not to damage—

(i) the installations of any other public utility or operator, or

(ii) the installations of persons authorised by the Chief Engineer to be placed,

in, on, through, under or over the public road and shall, within a reasonable time, rectify any damage caused to any such installations or pay compensation for its failure to do so.

Acquisition of wayleaves in private roads

30. (1) The Corporation may, in accordance with this section, acquire a wayleave to enter and—

(a) place waterworks in, on, through, under or over a private road;

(b) maintain, repair, alter, move, remove, replace, inspect, adjust or test any of those waterworks; and

(c) execute any works that are reasonably necessary in relation to the exercise of its rights under paragraph (a) or (b), including breaking up, excavating and temporarily obstructing any private road.

(2) A wayleave may only be acquired under this section in, on, through, under or over a private road with the consent of the owner of the private road.

(3) The consent of the owner may be by agreement and may be subject to conditions.

Exercise of rights under wayleaves in private roads

31. (1) This section applies to wayleaves in, on, through, under or over a private road that are vested in the Corporation on 3 November 2008 or acquired by it under this Act.

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(2) The exercise by the Corporation of its rights under a wayleave in a private road is subject to the conditions, if any, binding on the Corporation under section 30(3).

(3) The Corporation shall give not less than 48 hours written notice of its intention to exercise its rights under the wayleave in, on, through, under or over a private road or, in the case of an emergency, as much notice as is reasonably practicable in the circumstances, to—

(a) the Chief Engineer;

(b) the Commissioner of Police; and

(c) the owner of the private road;

and shall give a general description of what it proposes to do and where and when it proposes to do it.

(4) The Chief Engineer may impose in writing or otherwise any reasonable conditions on the exercise of the Corporation's rights under a wayleave in a private road and may make such conditions applicable to all, to certain classes of, or to specified, exercises of the Corporation's rights.

(5) The Corporation shall comply with such conditions as the Chief Engineer may impose.

(6) In exercising its rights under section 30(1), the Corporation shall—

(a) with all convenient speed, proceed to complete the placement, maintenance, repair, alteration, movement, removal, replacement, inspection, adjustment or testing of the waterworks;

(b) do as little damage as possible to the private road or anything on the private road;

(c) with all convenient speed, reinstate the private road to the reasonable satisfaction of the owner or pay compensation for its failure to do so;

(d) until the private road is reinstated, erect and maintain warning signs and devices, including lights or flares, as required by the Commissioner of Police, to give users of the private road reasonable notice that the road is broken up, excavated or temporarily obstructed;

(e) be responsible for remedying any defect in the reinstatement of the private road, including any subsidence, for a period of 3 months after completion of the reinstatement, or for paying compensation for its failure to do so; and

(f) take reasonable care not to damage—

(i) the installations of any other public utility or operator, or

(ii) the installations of persons authorised by the owner to be placed,

in, on, through, under or over the right of way of a private road and shall, within a reasonable time, rectify any damage caused to any such installations or pay compensation for its failure to do so.

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Acquisition of wayleaves in private land

32. (1) The Corporation may, in accordance with this section, acquire a wayleave to enter and—

(a) place waterworks in, on, through, under or over private land;

(b) maintain, repair, alter, remove, replace, inspect, adjust or test any of those waterworks; and

(c) execute any works in relation to the exercise of its powers under paragraph (a) or (b) including breaking up, excavating and temporarily interfering with the use of the private land.

(2) For greater certainty, nothing in subsection (1) gives the Corporation the right—

(a) to alter, move or interfere with, or place waterworks under, any buildings on the private land;

(b) to move waterworks placed under subsection (1) to a new location on the private land, if the centre line of the new location is more than 2 feet in either direction from the centre line of the original waterworks; or

(c) in the case of paragraph (1)(c), to break up, excavate or interfere with the use of the private land more than is reasonably necessary to execute the works.

(3) A wayleave may only be acquired under this section in, on, through, under or over private land with the consent of the owner of the land.

(4) The consent of the owner may be by agreement and may be subject to conditions.

Exercise of rights under wayleaves in private land

33. (1) This section applies to wayleaves in, on, through, under or over private land that are vested in the Corporation on 3 November 2008 or acquired by it under this Act.

(2) The exercise by the Corporation of its rights under a wayleave in private land is subject to the conditions, if any, binding on the Corporation under section 32(4).

(3) The Corporation shall give not less than 48 hours written notice of its intention to exercise its rights under the wayleave in, on, through, over or under private land or, in the case of an emergency, as much notice as is reasonably practicable in the circumstances, to the owner of the private land.

(4) In exercising its rights under section 32(1), the Corporation shall—

(a) with all convenient speed, proceed to complete the placement, maintenance, repair, alteration, removal, replacement, inspection, adjustment or testing of the waterworks;

(b) do as little damage as possible to the private land or anything on the private land;

(c) with all convenient speed, reinstate the private land to the reasonable satisfaction of the owner or pay compensation for its failure to do so;

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(d) until the private land is reinstated, erect and maintain warning signs and devices, including lights or flares, to give users of the private land reasonable notice that the land is broken up or excavated or its use is temporarily interfered with;

(e) be responsible for remedying any defect in the reinstatement of the private land, including any subsidence, for a period of 3 months after completion of the reinstatement, or for paying compensation for its failure to do so; and

(f) take reasonable care not to damage—

(i) the installations of any other public utility or operator, or

(ii) the installations of persons authorised by the owner to be placed,

in, on, through, under or over the private land and shall, within a reasonable time, rectify any damage caused to any such installations or pay compensation for its failure to do so.

Installations of other public utilities or operators

34. In the exercise of its rights under section 29, 31 or 33, the Corporation shall comply with the provisions of any enactment in force in Anguilla respecting the coordination of the placement, maintenance, repair, alteration, movement, removal, replacement, installation or reinstallation, by public utilities and operators in, on, through, under and over roads and private land of utility installations and facilities and such other related matters including without limitation, the plans to be prepared, notices to be given, reimbursement of costs, the effect of emergencies and resolution of disputes.

Installations of other persons in public roads

35. (1) In the exercise of its rights under section 29, the Corporation shall not alter, move or interfere with anything placed with the authorisation of the Chief Engineer in, on, through, under or over a public road by a person, other than a public utility or operator, unless the Corporation does so with the written consent of the Chief Engineer, which consent shall not be unreasonably withheld.

(2) When the Corporation wishes to alter, move or interfere with anything placed in, on, through, under or over a public road placed with the authorisation of the Chief Engineer in, on, through, under or over the public road by a person, other than a public utility or operator, the Corporation shall give written notice to the Chief Engineer requesting his or her consent and shall specify what it proposes to do and where and when it proposes to do it.

(3) The Chief Engineer shall, not later than 10 days after receipt of the notice under subsection (2), give written notice of his or her decision to the Corporation and may make his or her consent subject to reasonable conditions.

(4) When the Corporation is of the opinion that a consent under this section is unreasonably withheld by the Chief Engineer, or that the consent of the Chief Engineer is subject to unreasonable conditions, the Corporation may, on written notice to the Chief Engineer, apply to the Minister for an order dispensing with the consent or making the consent subject to reasonable conditions, and the Minister may make an order dispensing with the consent or may make the consent subject to such reasonable conditions as he sees fit.

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Damage or failure to perform obligations by Corporation under sections 27(3), 29, 31 and 33

36. When—

(a) in the exercise of a right of entry on land under section 27(3) by a person authorised to enter the land or another person assisting such authorised person, a disagreement arises with respect to damage or compensation; or

(b) a disagreement arises with respect to whether the Corporation has carried out its obligations under section 29, 31 or 33;

the Corporation or a person who considers himself aggrieved may apply to the Minister to determine the issue, and the Minister may, after consultation with the Executive Council, make such order as he sees fit.

Adverse effect of waterworks on value or utility of land

37. (1) When waterworks of the Corporation placed in, on, under, through or over a private road or private land have a substantial adverse effect on the value or utility of the land, the Corporation shall, on request in writing by the owner of the land, do one or more of the following—

(a) at its own expense remove the waterworks or part of the waterworks;

(b) at its own expense—

(i) move the waterworks or part of the waterworks to another location on the land where it does not have a substantial adverse effect on the value or utility of the land, or

(ii) alter the waterworks or part of the waterworks so as to eliminate or mitigate such substantial adverse effect;

(c) pay compensation.

(2) If the Corporation fails or refuses within a reasonable time after receiving a request to carry out its obligation under subsection (1) or a disagreement arises with respect to its obligations under subsection (1), the Corporation or the owner may apply to the Minister for an order requiring the Corporation to do one or more of the things specified in that subsection, and the Minister may, after consultation with the Executive Council, make such order as he sees fit.

Malicious interference with rights of Corporation

38. (1) Notwithstanding anything in this Act or the regulations, if a person wilfully or maliciously places or permits another person to place on any land anything that obstructs, hinders or interferes with the exercise by the Corporation of any of its rights or powers under this Act or the regulations, the Corporation may remove the thing in question at the cost of the person who placed the thing or permitted the thing to be placed on the land, and the Corporation shall not be required to reinstate the land or pay compensation for any damage caused by the removal.

(2) If a disagreement arises with respect to a matter under subsection (1), the Corporation or person who placed the thing or permitted the thing to be placed on the land may apply to the Minister for an order respecting the Corporation's duty to reinstate the land or pay compensation under that

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subsection, and the Minister may, after consultation with the Executive Council, make such order as he sees fit.

Acquisition of land

39. (1) When the Corporation needs land for the purpose of placing waterworks in, on, through, under or over land, it shall endeavour to acquire the land by agreement.

(2) Where—

(a) the Corporation fails to acquire land by agreement; and

(b) the Governor in Council considers that the land is necessary for the placement of waterworks by the Corporation;

the Governor in Council may, at the request of the Corporation, cause the necessary action to be taken to acquire the land in accordance with the Land Acquisition Act and, upon acquisition, to transfer the land to the Corporation on payment to the Government by the Corporation of the cost of acquisition.

(3) Acquisition of land under subsection (2) is deemed to be for a public purpose within the meaning of the Land Acquisition Act.

Immunity from distress, etc. of waterworks on premises other than those of Corporation

40. Notwithstanding any other Act, except where the Corporation otherwise agrees, all waterworks of the Corporation in, on, through, under or over land registered in the name of a person, other than the Corporation—

(a) are and remain the property of the Corporation;

(b) are not fixtures in relation to the land; and

(c) are not liable—

(i) to distress, seizure, attachment or execution under any process of any court or otherwise, or

(ii) to proceedings in insolvency, bankruptcy, liquidation, receivership or otherwise,

against the person in whose name the land is registered.

Judicial review

41. A person aggrieved by an order of the Minister made under section 36, 37 or 38 has a right to have the order reviewed by the High Court.

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PART 4

SUPPLY OF WATER SERVICE

Duty of Corporation to supply water service

42. (1) Subject to this Part, the Corporation shall supply water service to—

(a) the owner of premises; or

(b) the occupiers of premises, with the authorization of the owner of such premises.

(2) The customer must apply for water service on the form required by the Corporation.

Service connections

43. (1) The Corporation may, but is not obliged—

(a) to extend a service connection beyond a point just inside the property line of the premises of the customer; or

(b) to make separate service connections to units on the premises.

(2) The Corporation is responsible for maintaining every service connection in good repair.

(3) When a customer makes an application for water service to premises that require the Corporation to provide a service connection in any of the circumstances referred to in subsection (1), the Corporation shall, subject to subsection (4), require the customer to pay in advance the expenses to be incurred in making the service connection.

(4) The Corporation shall with all convenient speed furnish to the customer a written statement of expenses to provide the service connection based on the costs to the Corporation of labour and materials to be supplied including a reasonable allowance for overhead, and the statement is conclusive as between the Corporation and the customer of the expenses to be incurred in making the service connection.

(5) When—

(a) a customer makes an application for water service to premises that require the Corporation to provide an extension of the water-main, in addition to a service connection; and

(b) the cost of the extension of the water-main to a convenient point for making a service connection is not budgeted for in the business plan for the financial year in which water service is requested to be provided;

the Corporation may issue a notice in writing respecting the sharing, by the Corporation, the customer and subsequent customers who will benefit from the extension, of the costs of extending the water-main.

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(6) When a notice referred to in subsection (5) is issued, the Corporation may, refuse—

(a) to extend a service connection to a customer until the customer who applied for the service connection has complied with such notice; and

(b) to make a service connection to any subsequent customer who will benefit unless he or she has complied with such notice.

(7) A customer who is aggrieved by a notice or the decision of the Corporation under subsection (5) or (6) may, within 14 days of the receipt of the notice or, as the case may be, notice of such decision, apply in writing to the Minister to review that notice or decision of the Corporation.

(8) The Minister may—

(a) accept a review application delivered out of time if the Minister thinks it is just and equitable to do so; and

(b) confirm or vary the notice or, as the case may be, the decision under review.

(9) The decision of the Minister in a review application is final and must be given effect.

Exception to duty to supply water service, sufficient water service, etc.

44. (1) The Corporation is not liable for loss or damage to property, for injury or death or for economic loss to persons by reason of the failure to supply water service, the cessation of water service or insufficiency of water service if or to the extent that such loss or damage to property, such injury or death or such economic loss is the result of circumstances not within the Corporation's control including, without limitation—

(a) neglect or failure of a person obliged by contract to supply water to the Corporation to supply that water;

(b) defects in equipment or materials supplied to the Corporation that a reasonable inspection would not have revealed;

(c) hurricane, flood or other act of God;

(d) epidemic; and

(e) war, hostilities, actual or apprehended, acts of violence, civil disorder or labour or industrial action by employees of the Corporation;

unless the loss or damage to property, injury or death or the economic loss was the result of the negligence of the Corporation or its servants or agents, but the total liability of the Corporation and its servants and agents—

(f) for any one claim, shall not exceed $10,000; and

(g) for all claims arising from an incident, shall not exceed $100,000.

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(2) When, but for paragraph (1)(g), the sum of the claims would exceed $100,000, the claims shall be prorated.

Ministry of Health to be responsible for quality of water supplied

45. (1) Subject to section 25 and this Part, the control of the quality of the potable water supplied by the Corporation shall be the responsibility of the Ministry of Health.

(2) All directives, instructions, regulations and standards set up by the Ministry of Health for the quality of potable water and any sanitary aspect of the waterworks shall be obeyed and complied with by the Corporation.

(3) Any duly authorised officer of the Ministry of Health may, on identifying himself or herself to an officer of the Corporation, enter the premises of any waterworks for the purposes of inspecting or taking samples of water and of verifying that regulations and standards issued by that Ministry are complied with.

(4) Any person who hinders or obstructs any duly authorised officer of the Ministry of Health from entering the premises of any waterworks under this section is guilty of an offence and is liable on summary conviction to a fine of $2,000 or to imprisonment for a term of 3 months.

Charges, terms and conditions of water service and special agreements

46. (1) Except as provided in subsection (6) and subject to the approval of the Minister, the Corporation—

(a) shall supply water service to customers or classes of customers in accordance with the tariff of charges for water service fixed by the Corporation by reference to such criteria; and

(b) may adopt such system for the calculation of the amount of such charges as appears to the Corporation to be appropriate.

(2) In subsection (1), charges for water service include—

(a) water service provided at no charge or at a reduced charge, or both, under a programme to provide a subsidy to publicly assisted persons in relation to water service referred to in section the regulations; and

(b) the flat rate charge for water service referred to in section 52(3).

(3) A customer is liable to pay the charges for water service to his or her premises until 7 days after the customer has given written notice or causes written notice to be given to the Corporation that the water service to the premises is to be disconnected.

(4) If the customer does not give written notice or cause written notice to be given under subsection (3), the customer continues to be liable to pay the charges for water service until—

(a) the water service is disconnected for non-payment; or

(b) the date on which a subsequent customer applies for water service to the premises;

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whichever occurs first.

(5) A notice to the effect that the customer remains liable under subsections (3) and (4) shall be endorsed on or accompany every water bill issued by the Corporation, but no water bill is invalid by reason only of the fact that the notice is not endorsed on, or does not accompany, the water bill.

(6) The Corporation may enter into a special agreement with a customer for water service and, when it does so, the charge for water service to the customer and the terms and conditions of water service shall be as set out in the special agreement.

(7) Until the Minister has approved charges as authorised under this Act, the present authorised charges and the method of assessment and payment shall continue in full force and effect.

Charges associated with water service that Corporation may impose

47. Subject to the approval of the Minister, the Corporation may impose charges associated with water service for such services as—

(a) the reconnection of water to the customer's premises;

(b) the relocation of a water meter at the customer's request; or

(c) the testing of a water meter at the customer's request.

Security deposits

48. (1) Subject to such restrictions as the Minister may by regulation impose on the right of the Corporation to require security deposits, the Corporation may at any time require a customer to furnish a security deposit, or a larger security deposit, in an amount that appears appropriate to the Corporation for the due payment of charges for water service and accrued interest on late payment of charges for water service.

(2) The Corporation may—

(a) refuse to connect a customer; or

(b) after giving at least 30 days written notice, disconnect any customer;

who neglects or refuses to furnish a security deposit or larger security deposit.

(3) The Corporation shall pay interest on a security deposit made under this section at the rate of 3% per annum simple interest or such other rate as may be approved by the Minister.

When a water bill is due and payable; interest on late payment

49. (1) The Corporation shall issue water bills on the basis of a monthly billing period.

(2) The date the water bill is printed shall be printed on the bill and identified as the billing date.

(3) A water bill is due and payable not later than 30 days after the billing date.

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(4) The Corporation may charge interest on late payment of charges for water service at the rate approved by the Minister.

(5) When payment is made in respect of charges for water service and accrued interest, the payment shall be applied first in payment of the interest and thereafter in payment of the charges for water service.

Disconnection in default of payment of charges for water service and interest

50. (1) When a water bill for premises is unpaid 30 days after the billing date, the Corporation—

(a) may disconnect the water service to those premises; and

(b) may refuse to reconnect the water service to those premises until—

(i) the arrears in respect of payment of charges for water service and accrued interest and the reconnection charge imposed in accordance with section 47 are paid, or

(ii) the customer pays the reconnection charge imposed in accordance with section 47 and makes—

(A) a payment on account of the arrears in respect of the charges for water service and accrued interest, and

(B) an agreement with the Corporation for the payment by instalments of the balance of the arrears and accrued interest.

(2) If the customer defaults on an agreement with the Corporation for the payment by instalments of arrears and accrued interest in respect of charges for water service, the Corporation may, without further notice, exercise its rights under subsection (1) as if no agreement had been entered into and may do so each time the customer defaults.

(3) Notwithstanding subsections (1) and (2), no water service to any Ministry, Department or office of the Government shall be disconnected unless the Corporation first gives to the Permanent Secretary of the relevant Ministry, Department or office 7 days written notice of the intention to disconnect the water service but, where any such Department or office does not have a Permanent Secretary, such notice shall be given to the person in charge of the Department or office.

Refusal to connect customer in default in respect of other premises

51. (1) The Corporation may refuse to connect the water service to premises in respect of which the customer is not in arrears as regards water service and accrued interest if the customer is in arrears in respect of other premises until—

(a) the arrears in respect of payment of charges for water service and accrued interest and the reconnection charge imposed in accordance with section 47 in respect of the other premises are paid; or

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(b) the customer pays the reconnection charge imposed in accordance with section 47 and makes—

(i) a payment on account of the arrears in respect of charges for water service and accrued interest in respect of the other premises, and

(ii) an agreement with the Corporation for the payment by instalments of the balance of the arrears and accrued interest in respect of the other premises.

(2) If the customer defaults on the agreement with the Corporation for payment by instalments of the arrears in respect of charges for water service and accrued interest, the water bill of the customer in respect of the premises connected under subsection (1) is deemed to be unpaid for 30 days after the billing date and section 50 applies in respect of such premises.

Water consumption to be measured by water meter

52. (1) Subject to subsection (3), sections 53(4) and 54 and the regulations, the Corporation shall measure the consumption of water by a customer by means of a water meter.

(2) The Corporation shall keep the water meters used in measuring the consumption of water in proper working condition for accurately recording consumption within the limits of error for which the water meters are designed.

(3) When the Corporation does not have a water meter, or a water meter of the appropriate type, to measure the consumption of water by a customer, the Corporation may charge the flat rate charge for water service applicable to the customer until the water meter is installed.

Testing of water meters

53. (1) The Corporation shall—

(a) provide and maintain; or

(b) enter into a contract or arrangement for a service provider to provide and maintain;

in proper working condition the equipment necessary for testing water meters.

(2) The Corporation—

(a) may test a water meter on a customer's premises and it may, for that purpose, use any equipment that it considers appropriate; or

(b) may remove the water meter for testing and replace it with another.

(3) When a customer requests the Corporation to test a water meter and pays the testing charge imposed in accordance with section 47, the Corporation shall without delay test the water meter—

(a) against a properly calibrated water meter; or

(b) by using equipment designed to measure the consumption of water;

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and give a written report of the results of the test to the customer.

(4) If the report shows the water meter is registering outside the limits of error for which the water meter is designed—

(a) and in excess of what it ought to have registered, the Corporation shall replace the water meter, refund the testing charge and make an allowance to the customer in respect of the excess amount of water registered; or

(b) and below what it ought to have registered, the Corporation shall replace the water meter and may surcharge the customer in respect of the insufficient amount of water registered.

(5) In the absence of evidence to the contrary, the water meter is deemed to have registered erroneously—

(a) for 3 months before it was tested; or

(b) from the day it was last replaced;

whichever is the shorter, and to have done so until the day the water meter is replaced.

Measurement of consumption when unable to gain access to read water meter

54. (1) When the Corporation is unable to gain access to the premises of a customer to read the water meter, the Corporation may, for each billing period during which it is unable to gain such access, bill the customer for the highest consumption in any of the 6 billing periods before the billing period when it was unable to gain access.

(2) When the Corporation obtains a reading of the water meter, it shall without delay adjust the amount charged so as to reflect the actual water consumption of the customer on the premises on the assumption that the consumption of water during the period during which it was unable to gain access to the premises was uniform.

Customer's request to relocate service connection

55. (1) The Corporation shall, at the request of the customer, relocate the service connection of the customer with all convenient speed after the expiration of 5 working days after payment by the customer of the charge for relocating the service connection and the costs referred to in subsection (2).

(2) The Corporation shall with all convenient speed furnish to the customer a written statement of costs of relocating the service connection based on the costs to the Corporation of labour and materials to be supplied including a reasonable allowance for overhead, and the statement is conclusive as between the Corporation and the customer of the cost of relocating the service connection.

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PART 5

RETURNS OF INFORMATION, REGULATIONS AND OFFENCES

Minister may require returns

56. The Corporation shall without delay furnish the returns of information that the Minister may, by written notice to the Corporation, require.

Regulations

57. (1) The Governor in Council may make regulations for the better carrying out of this Act, including regulations—

(a) prescribing anything that under this Act may be prescribed;

(b) exempting persons or operations, or classes of persons or operations, for the purpose of the definition of piped water;

(c) prohibiting and regulating the resale of water supplied to a customer by the Corporation;

(d) respecting the giving of notices for which no provision is made under this Act;

(e) respecting the giving of notices, other than notices of request, under any or all the provisions of this Act;

(f) providing that a fine of not more than $2,000 be imposed for a contravention of a provision of the regulations, and for the making of orders against a convicted person by the Court for the purpose of preventing further contraventions in addition to convicting him or her.

(2) The Minister may by regulation—

(a) amend, add to or repeal and replace the Schedule;

(b) provide for transitional matters when the Schedule is amended, added to or repealed and replaced.

Illegal connections and works related to illegal connections

58. (1) No person, other than the Corporation or a person acting with the authority of the Corporation, proof of which lies upon him or her, shall—

(a) connect or cause a connection to be made, directly or indirectly, into the waterworks of the Corporation for the purpose of taking or receiving water from the waterworks of the Corporation; or

(b) excavate, place pipe, or do any other thing, in, on, through, under or over a public road or private road or adjacent to a public road or private road or in, on, through, under or over private land where there are waterworks of the Corporation with the intention of connecting into the waterworks of the Corporation.

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(2) The Corporation may—

(a) disconnect a connection made contrary to paragraph (1)(a); and

(b) remove a pipe or other thing placed contrary to paragraph (1)(b) or do anything necessary to remedy the contravention referred to in that paragraph.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $2,000 or to imprisonment for a term of 3 months, and the Court may, in addition to convicting the person, make an order—

(a) for the payment by the person of the costs incurred by the Corporation in the exercise of its powers under subsection (2); and

(b) prohibiting the person from connecting or excavating, placing pipe or doing any other thing, in, on, through, under or over a public road or private road or adjacent to a public road or private road or in, on, through, under or over private land with the intention of connecting into the waterworks of the Corporation.

(4) The definitions in section 24 apply to this section.

Unlawful abstraction or consumption of unlawfully abstracted water

59. (1) No person shall, knowingly and without legal right, proof of which lies upon him or her—

(a) abstract water or cause any water to be abstracted from the waterworks of the Corporation; or

(b) consume or use any water that has been unlawfully abstracted from the waterworks of the Corporation.

(2) In subsection (1), "abstract", in relation to a standpipe, includes diverting water from a standpipe by attaching a hose or other device for the purpose of conveying the water to premises other than those where the standpipe is located.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $2,000 or to imprisonment for a term of 3 months, and the Court may, in addition to convicting the person, determine the amount owing by the person to the Corporation by reason of the abstraction, consumption or use of the water and order him or her to pay it.

Wilful contamination, etc. of potable water supply

60. (1) No person shall recklessly, wilfully or negligently—

(a) cause or suffer any pipe or other apparatus or receptacle belonging to or connected with the waterworks of the Corporation to be used in such a way that the water supplied to that person is or is likely to be contaminated; or

(b) commit any act which, by itself or with other acts, impedes or interrupts or is calculated to impede or interrupt the flow of water belonging to the waterworks.

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(2) No person shall use the potable water supply or the water system for any purpose that jeopardises or is likely to jeopardise the public health or alter the chemical or bacteriological balance of the water.

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable on summary conviction for each offence to a fine of $3,000 or to imprisonment for a term of 6 months or to both.

(4) In the event any damage should result to the waterworks from the commission of any of the offences mentioned in this section, the Magistrate may, in addition to any punishment he or she may impose, order the offender to pay compensation to the Corporation for such damage.

Damage to water meters and illegal reconnection of water service

61. (1) No person shall—

(a) wilfully or recklessly tamper with, disconnect, bypass, damage or remove a water meter belonging to the Corporation or permit any person to tamper with, disconnect, bypass, damage or remove, a water meter belonging to the Corporation; or

(b) except under the written authority of the Corporation, proof of which lies upon him or her, reconnect to the waterworks of the Corporation a water service that has been disconnected.

(2) The Corporation may, without notice, disconnect a reconnection made contrary to paragraph (1)(b).

(3) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $2,000 or to imprisonment for a term of 3 months, and the Court may, in addition to convicting the person, make an order for the payment by the person of compensation to the Corporation for its loss by reason of—

(a) the tampering, disconnecting, bypassing, damaging or removing of the water meter; or

(b) the reconnection of the water service.

Disconnecting, damaging, etc. waterworks

62. (1) No person shall—

(a) maliciously tamper with, disconnect or damage the waterworks belonging to the Corporation with the intent of cutting off water service;

(b) wilfully or recklessly damage any waterworks belonging to the Corporation; or

(c) without the authority of the Corporation, proof of which lies upon him or her, remove or disconnect any waterworks belonging to the Corporation.

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(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction—

(a) in the case of paragraph (1)(a), to a fine of $2,000 or to imprisonment for a term of 6 months; and

(b) in the case of paragraph (1)(b) or (c), to a fine of $2,000 or to imprisonment for a term of 3 months;

and the Court may, in addition to convicting the person, make an order for the payment by the person of compensation to the Corporation for its loss by reason of the tampering, damage, removal or disconnection.

Obstruction, etc. of person authorised by Corporation

63. (1) No person shall intentionally or recklessly obstruct, molest, hinder or interfere with a person authorised by the Corporation, or with any person who is reasonably required by that authorised person to assist him or her, in the carrying out of a responsibility or the exercise of a power under this Act or the regulations.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $2,000.

Prohibitions respecting water from standpipes

64. (1) No person shall—

(a) allow water from a standpipe to run to waste; or

(b) use water from a standpipe to bathe or to wash clothes or an animal, vehicle or other thing at or near the standpipe.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $1,000.

Offences by directors, officers or agents of corporations

65. When a corporation commits an offence under this Act, any director, officer or agent of the corporation who directed, authorised, assented to, acquiesced or participated in the commission of the offence is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted for or convicted of the offence.

Notice

66. (1) A notice may be given to the Minister—

(a) personally;

(b) by registered mail addressed to the Minister's office;

(c) by leaving it during normal business hours with a person in charge of the Minister's office; or

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(d) as prescribed.

(2) A notice, other than a notice under Part 4, may be given to the Corporation—

(a) by giving it personally to the Chief Executive Officer;

(b) by sending it by registered mail to the Chief Executive Officer's office;

(c) by leaving it during normal business hours with a person in charge of the Chief Executive Officer's office; or

(d) as prescribed.

(3) A notice to the Corporation under Part 4 may be given—

(a) by sending it by registered mail to the Corporation's business office;

(b) by leaving it during normal business hours with a person designated to receive notices in the Corporation's business office or, if no such person is designated, with the person in charge of the Corporation's business office; or

(c) as prescribed.

(4) A notice to the Chief Engineer or the Commissioner of Police under section 29(2) or 31(3), other than in the case of an emergency, may be given—

(a) personally;

(b) by sending it by registered mail to the Chief Engineer or the Commissioner of Police;

(c) by leaving it during normal business hours with a person in charge of the office of the Chief Engineer or the office of the Commissioner of Police;

(d) by facsimile transmission to the office of the Chief Engineer or the office of the Commissioner of Police; or

(e) as prescribed.

(5) A notice under Part 3 may be given to an owner of land, as defined in that Part, or to his or her executor or administrator—

(a) personally, if the owner of land or his or her executor or administrator is an individual;

(b) if the owner of land or his or her executor or administrator is a partnership, any one of the partners of which is an individual, by giving the notice personally to one of the partners who is an individual;

(c) if the owner of land or his or her executor or administrator is a corporation, by giving the notice personally to a director or officer of the corporation;

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(d) if the owner of land or his or her executor or administrator is a partnership, any one of the partners of which is a corporation, by giving the notice personally to a director or officer of the corporation that is a partner;

(e) by registered mail addressed to the last known address of the owner or his or her executor or administrator; or

(f) as prescribed.

(6) A notice may be given to a customer by the Corporation—

(a) by sending it by ordinary mail to the customer at his or her last known address;

(b) by leaving it with an adult in charge of the premises of the customer; or

(c) as prescribed.

(7) A notice under paragraph (6)(a) is deemed to have been received by the customer in the ordinary course of mail.

(8) This section does not apply when a provision of this Act or the regulations provides that a notice may be given in another manner or that such notice shall be given as is reasonably practicable in the circumstances.

PART 6

CITATION AND TRANSITIONAL PROVISIONS

Citation

67. This Act may be cited as the Water Corporation of Anguilla Act, Revised Statutes of Anguilla, Chapter W4.

Transitional: regulations

68. Notwithstanding sections 69 and 70, the Governor in Council may make regulations providing for any transitional matter not dealt with or not sufficiently dealt with by this Act.

Transitional: rates, terms and conditions of water service and charges

69. (1) Notwithstanding anything in this Act but, subject to subsection (3) and any regulations made under section 68, the Corporation may, on or after 3 November 2008—

(a) continue to charge the rates for water service and other charges imposed by the Government or the Water Board;

(b) continue to charge interest provided by or under the Financial Administration and Audit Act; and

(c) provide water service on the terms and conditions of service;

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as those charges and terms and conditions stood immediately before 3 November 2008, and the following provisions apply to those charges and terms and conditions—

(d) until fixed by the Minister, the charges referred to in paragraph (a) are deemed to have been fixed in accordance with sections 46(1)(a) and 47;

(e) until approved by the Minister, the charges referred to in paragraph (b) are deemed to have been approved for the purposes of section 48(3);

(f) until approved by Minister, the terms and conditions referred to in paragraph (c) are deemed to have been approved in accordance with section 46(1)(b).

(2) The Corporation is the successor of all the rights and responsibilities that the Government or Water Board had in relation to its customers immediately before 3 November 2008, including the rights and responsibilities in relation to estimated costs of service connections or relocating service connections, security deposits, the payment of rates for water service and charges, the collection of arrears of rates for water services, disconnections, reconnections and other similar matters as if those rights and responsibilities had been those of the Corporation, and those rights and responsibilities shall be exercised as nearly as possible in accordance with this Act.

(3) The Corporation shall, to the satisfaction of the Minister of Finance, do an accounting of the money owing to and by the Government under subsection (2) in respect of the Water Department on 3 November 2008 and shall deal with any revenue or deficit revealed thereby in the business plan.

(4) A contract or arrangement between the Government and a person for the supply of water at a special rate and on special terms and condition that is in existence immediately before 3 November 2008 is binding on the Corporation according to its terms and is deemed to be a special agreement and to have had the prior consent of the Minister.

Transitional: lease of land, vesting of personal property and assignment of contracts

70. (1) On 3 November 2008—

(a) the Government shall enter into a lease with the Corporation of the land occupied by the Water Department;

(b) the personal property of the Government or the Water Board associated with the operations of the Water Department vests in the Corporation; and

(c) the contracts for the supply of goods and services in relation to the Water Department are assigned to the Corporation and shall be enforceable as fully and effectually as if the Corporation had been a party to the contract instead of the Government.

(2) The Corporation and the Minister shall, as soon as possible after 3 November 2008, prepare an inventory of personal property and contracts referred to in paragraphs (1)(b) and (c) respectively and, when it is signed, it is conclusive evidence of the effect of those paragraphs.

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SCHEDULE

(Section 10)

PROCEDURES OF THE BOARD

Frequency, place, day and time of meetings of the Board

1. (1) The Board shall meet as often as may be necessary to carry out its responsibilities and exercise its powers expeditiously and shall in any event meet not less than 6 times in any calendar year.

(2) Meetings of the Board shall be held at such place in Anguilla on such days and at such times as the Chairperson may determine.

Notice of meeting of the Board

2. (1) Notice of the place, day, time and agenda of each meeting of the Board shall be given to each member and the Chief Executive Officer in writing not less than 72 hours before the time the meeting is to be held, unless the member waives notice of the meeting in writing.

(2) Notice shall be given to a person mentioned in subsection (1) by—

(a) handing a copy to such person;

(b) mailing a copy to such person by prepaid post at the mailing address of such person last shown on the records of the Corporation;

(c) emailing or faxing to such person at the email address or fax number last shown on the records of the Corporation; or

(d) any other means approved by the Board.

(3) A copy of a notice given by mail is deemed to have been received by such person to whom it is addressed 3 days after it is mailed.

(4) If a meeting is adjourned for less than 14 days, it is not necessary to give notice of the place, day and time to which the meeting is adjourned if the place, day and time are announced at the earlier meeting.

Waiver of notice

3. A member may in writing waive notice of a meeting of the Board.

Requisitioning meeting

4. (1) Any 3 members may, by written requisition signed by each requisitioning member and given to the Chairperson, require him or her to call a meeting of the Board for the purposes stated in the requisition.

(2) The Chairperson shall, without delay but in any event not later than 7 days after being given the requisition, give notice of a meeting of the Board for the purposes stated in the requisition, to be held not later than 14 days after being given the requisition.

Chairperson to preside

5. (1) The Chairperson is the presiding officer at meetings of the Board.

(2) In the event of a tie vote on a matter, the Chairperson has a second or casting vote.

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(3) The decision of the Chairperson is final on the following matters—

(a) subject to section 4 of this Schedule, the agenda for a meeting;

(b) the conduct of the meeting on questions of order and relevance;

(c) the procedure for handling motions.

Quorum

6. A quorum of the Board is 4 members present and eligible to vote at the meeting.

Voting

7. (1) Voting at a meeting of the Board shall be by show of hands except when a ballot is demanded by a member.

(2) All matters before a meeting of the Board shall be decided by a simple majority of the members present and eligible to vote.

Participation by telephone or other form of communication

8. A member may, if all members present consent, participate in a meeting of the Board by means of a telephone or other form of communication that permits all persons participating in the meeting to hear each other.

Resolution in lieu of meeting

9. (1) When a resolution in writing is signed by all members entitled to vote on the resolution at a meeting, the resolution is as valid as if it were passed at a meeting of the Board.

(2) A copy of each resolution referred to in subsection (1) shall be kept in minute book of the Corporation.

Disclosure of pecuniary interest

10. A member who has a direct or indirect pecuniary interest in any matter that comes before a meeting of the Board shall—

(a) declare the nature of his or her interest in the matter;

(b) withdraw from the meeting while the matter is under consideration; and

(c) refrain from influencing or voting on the matter.

Minutes of Board meetings

11. (1) The Board shall appoint an employee of the Corporation as secretary to the Board, who shall keep accurate and complete minutes of each meeting of the Board, including particulars of—

(a) the notice of the meeting given to each member and the Chief Executive Officer and any waiver of notice by a member;

(b) the members in attendance and members not in attendance and whether the member's absence was consented to by the Board for the purpose of section 9(2)(a) of the Act;

(c) any non-members in attendance;

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(d) each resolution moved, the number of members present and voting for and against it or abstaining from voting on it, whether the resolution was passed or defeated and whether the vote was by show of hands or by ballot;

(e) when a member participates in a meeting by telephone or other means of communication under section 8 of this Schedule, the name of the member and particulars of the telephone or other means of communication; and

(f) the nature of any declaration by a member of a direct or indirect pecuniary interest in any matter under section 10 of this Schedule and particulars of his or her withdrawal and return to the meeting.

(2) A copy of the minutes shall be tabled at the next meeting of the Board for approval.

(3) The minutes shall be filed in the minute book of the Corporation.

Committees

12. (1) The Board may establish any committees that it considers appropriate to advise it on the furtherance of the objects of the Corporation.

(2) A committee may consist of members or persons who are not members or both.

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